1949. **File No.** O. Press & Regis/49

Legal Department

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Subject:— Opinions under Press and Registration of Books Act.

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A leaflet, which purports to have been signed by Mancharji Edulji Joshi and nine others, was issued in connection with the last bye-election to the Bombay Legislative Assembly recommending the candidature of Mr. Purshotuam Tricumdas for the reason, inter alia, that he was opposed to the Government's policy of prohibition and would raise that opposition in the Assembly. The leaflet does not bear the name of the printer or the place of printing or the name of the publisher and the place of publication. The question referred to the R.L.A. for advice is whether the signatories can be prosecuted under section 12 of the Press and Registration of Books Act, 1867.

Section 12 of the Act provides that whoever shall print or publish any book or paper otherwise than in conformity with the rule contained in section 3 of this Act shall be punished, etc. and section 3 requires that every book or paper printed within the Province shall have printed legibly on it the name of the printer and the place of printing and, if the book or paper be published, the name of the publication and the place of publication. The word "book" has been defined in the Act but the word "paper" has not been defined, although "newspaper" has been defined. The preamble to the Act shows that it was intended for the regulation of printing presses and of periodicals containing news, for the preservat of copies of every book printed or lithographed and for the registration of such books. Having regard to this preamble, it was held in the case of Rameshwar Prashad Verma v. King Emperor (I.L.R. 10 Patna 492), that the word "papers

in section 3 is clearly paper of the description given in the preamble, viz., containing news, and is practically, if not exactly, synonymous with the word "newspaper" as defined in the Act itself. Our own High Court considered this question in the case of Emperor v. Dattatraya Malhar Bidkar (38 Bom. L.R. 1115) and, although no definite opinion was expressed, Beaumont C.J. felt great hesitation in giving to the word "paper" used in section 3 the wide meaning attributed to it in the argument of the Advocate General, who had argued that it should include every piece of paper on which any letter, figure or sign is printed and that every such peice of paper fell within the mischief aimed at by the Act. Wassoodew J. the other member of the Bench, was inclined to endorse the view taken by the Patna High Court. To Government Resolution, Home Department No. 1858- Poll. dated the 26th July 1939, a Memorand was attached in which "paper" has been defined to mee all matter printed or lighographed on paper which would not fall under the definition of " book " and includes leaflets, i.e., matter printed on single leaves. The source of this definition is not traceable; and in any case, it has no statutory authority. However, the definition would receive some support from the exemptions granted under the proviso at the end of G.N., H.D. (Poll), No. 1953 -Poll, dated 8.11.1937 which reads as follows :-

"Provided that notwithstanding anything above contained, no books and papers issued by or in support of any person who is a cadidate at any election either to any legislative body constituted under the Government of India Act or the Government of India Act, 1935, or to any local authority shall be so exempted."

Having regard to these exemptions, it may be

possible to argue that the absurdity which troubled Beaumont C.J. is not valid and that the plenary meaning as contended by the Advocate General in Bidkar's case should be attached to the word "paper"; and that in particulars leaflets etc. issued in the course of an election campaigh were to be included in the term "paper" and were not exempted under section 21. However, it must be confessed that the position is not free from doubt. I for myself am not prepared to endorse the view that "paper" should be construed as sunonymous with "news-paper.". I am inclined to give the plenary meaning to the word "paper".

Under section 12 it is the person who prints or publishes the paper who becomes liable to publishment It has been held in Bidkar's case quoted above that the publishar of a paper is the person who publishes it in the ordinary sense of the term, that is to say , arranges with the proprietor for its distribution. In order to proprietor for its distribution. In order to prosecute any of the signatories, it must, therefore, be shown that he was the publisher in this sense. The fact that his name appears on the printed leaflet would not by itself be sufficient.

Sd/- P.M.Lad.

Remembrancer of Legal Affairs.

M-R. to H.D. (poll.) No. 5107 , dated the 10th May 1949.

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